

**State of Utah****Department of
Natural Resources**

MICHAEL R. STYLER
Executive Director

**Division of
Oil, Gas & Mining**

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

September 19, 2005

CERTIFIED RETURN RECEIPT
7002 0510 0003 8603 3134

Gary Mullard
Northern Stone Supply
203 West Main
Oakley, Idaho 83346

Subject: Reassessment of Penalty for State Cessation Order No. MC-05-01-06,
Limelight Green Quarry (S/003/012), Box Elder County, Utah

Dear Mr. Mullard:

The proposed civil penalty assessment for the above referenced cessation order was sent to you on June 13, 2005. At that time the abatement had not been completed and some of the facts surrounding the violation were not available. In accordance with rule R647-7-105, the penalty is to be reassessed when it is necessary to consider facts which were not reasonably available on the date of the issuance of the proposed assessment. Following is the reassessment of the penalty for the cessation order:

- MC-05-01-06(1)– Violation 1 of 1 \$506

The enclosed worksheet specifically outlines how the violation was reassessed.

Under R647-7-106, there are two informal appeal options available to you:

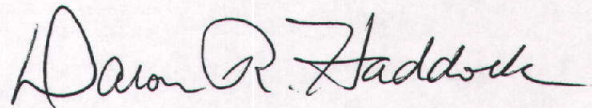
1. If you wish to informally appeal the fact of the Cessation Order, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director or Associate Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of

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violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of the cessation order will stand, the reassessed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the reassessment. Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,

A handwritten signature in black ink that reads "Daron R. Haddock". The signature is fluid and cursive, with the first name "Daron" being more prominent than the last name "Haddock".

Daron R. Haddock
Assessment Officer

Enclosure: Worksheets

cc: Vicki Bailey, Accounting
Vickie Southwick, Exec Sec

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WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

COMPANY / MINE Gary Mullard/ Limelight Green Quarry PERMIT S/003/012
NOV / CO # MC-05-01-06(1) VIOLATION 1 of 1

ASSESSMENT DATE September 19, 2005

ASSESSMENT OFFICER Daron R. Haddock

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

- A. Are there previous violations, which are not pending or vacated, which fall within three (3) years of today's date?

| PREVIOUS VIOLATIONS | EFFECTIVE DATE | POINTS (1pt for NOV 5pts for CO) |
|---------------------|----------------|-------------------------------------|
| <u>none</u> | <u></u> | <u></u> |
| <u></u> | <u></u> | <u></u> |

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
Conducting Activities without appropriate approvals.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

| <u>PROBABILITY</u> | <u>RANGE</u> |
|--------------------|--------------|
| None | 0 |
| Unlikely | 1-9 |
| Likely | 10-19 |
| Occurred | 20 |

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

*** *Before enlarging a small mining operation beyond five acres, the operator must file a Notice of Intention to Commence Large Mining Operations and receive Division approval. A few acres have been disturbed at this location without revising the Notice of Intent to do so. While the Operator has a Notice of Intent for a small mine, which allowed disturbance up to 5 acres, the operation has expanded to approximately 8 acres. Approximately 3 acres have been disturbed that were not approved for disturbance. Disturbance has actually occurred.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector stated that the operator has disturbed approximately 3 acres of land that had not been approved for disturbance. The damage was the loss of resources and soil on the area disturbed. Further discussion with the inspector revealed that the damage is probably temporary. While much of the soil and vegetation have been disturbed, the site could still be reclaimed. While the damage is extensive over the property, it probably does not leave the site. Damage is assessed in the lower 1/3 of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 28

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

| | |
|-------------------------|-------|
| No Negligence | 0 |
| Negligence | 1-15 |
| Greater Degree of Fault | 16-30 |

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 10

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector indicated that the operator was notified by certified letter dated April 19, 2000 that he had expanded beyond 5 acres and needed to obtain a large mine permit or reclaim to below 5 acres. The operator did not keep close track of the disturbance that he was creating. He had reclaimed some, but did not realize that he had exceeded the 5 acre area. This indicates lack of diligence or lack of reasonable care. A prudent operator would understand the need to keep track of the area being mined and obtain approval prior to expanding his mining operations. No contact was made to the Division, to verify the need for a large mine permit. The Operator was negligent in this regard, thus the assignment of points in the middle to upper part of the negligence range.*

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

- Immediate Compliance -11 to -20*
(Immediately following the issuance of the NOV)
- Rapid Compliance -1 to -10
(Permittee used diligence to abate the violation)
- Normal Compliance 0
(Operator complied within the abatement period required)
(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20*
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10*
(Operator complied within the abatement period required)
- Extended Compliance 0
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? Difficult

ASSIGN GOOD FAITH POINTS -15

PROVIDE AN EXPLANATION OF POINTS:

*** *Since plans were required for abating this violation the abatement is considered to be difficult. The operator has showed diligence in completing the abatement. Plans for reducing the disturbed area to less than 5 acres along with a map were required to be submitted by July 1, 2005. Plans were actually received June 27, 2005, which was ahead of the deadline. Regrading work was required to be completed by July 31, 2005 and the Division was notified that it had been completed by July 25, 2005 again well ahead of the deadline. Overall the Operator did comply rapidly and receives good faith points in the middle part of the rapid compliance range.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

| | |
|---|------------------|
| NOTICE OF VIOLATION # <u>MC-05-01-06(1)</u> | |
| I. TOTAL HISTORY POINTS | <u>0</u> |
| II. TOTAL SERIOUSNESS POINTS | <u>28</u> |
| III. TOTAL NEGLIGENCE POINTS | <u>10</u> |
| IV. TOTAL GOOD FAITH POINTS | <u>-15</u> |
| TOTAL ASSESSED POINTS | <u>23</u> |
| TOTAL ASSESSED FINE | <u>\$506</u> |